



Before: Judge Ebrahim-Carstens

Registry: New York

Registrar: Hafida Lahiouel

MABANDE

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

JUDGMENT

ON WITHDRAWAL

Counsel for Applicant:

Lennox S. Hinds

Claire Gilchrist

Counsel for Respondent:

Alan Gutman, ALS/OHRM, UN Secretariat

Elizabeth Gall, ALS/OHRM, UN Secretariat

Introduction

1. In the period of 3 April to 24 May 2013, the United Nations Dispute Tribunal received six separate applications from six Security Officers in the Department of Safety and Security in New York, appealing the decision made by the Chief, Safety and Security Services, with the approval of the Office of Human Resources Management, to require them as a condition of future employment to undergo a comparative review exercise. Specifically, the six applications were filed on the following dates and assigned the following case numbers:

- a. UNDT/NY/2013/020 (*Yudin*) – filed on 3 April 2013;
- b. UNDT/NY/2013/022 (*Adundo*) – filed on 3 April 2013;
- c. UNDT/NY/2013/023 (*Lamuraglia*) – filed on 8 April 2013;
- d. UNDT/NY/2013/024 (*Adu-Mensah*) – filed on 8 April 2013;
- e. UNDT/NY/2013/032 (*Mabande*) – filed on 22 April 2013;
- f. UNDT/NY/2013/089 (*Chaclag*) – filed on 23 May 2013.

2. The present Judgment concerns the application filed by Mr. Mabande (Case No. UNDT/NY/2013/032). Mr. Mabande and five other Security Officers are represented by Mr. Lennox Hinds and Ms. Claire Gilchrist. The Respondent is represented by Mr. Alan Gutman and Ms. Elizabeth Gall in each of the six cases.

Background

Early case management

3. By five separate Orders issued on 30 May 2013 (Orders No. 135 (NY/2013), No. 136 (NY/2013), No. 138 (NY/2013), 141 (NY/2013), 142 (NY/2013)), the Tribunal

alternatively, 22–24 January 2014. The parties further filed an agreed order of appearance of witnesses.

Hearing on the merits set for 29–31 January 2014

15. By Order No. 324 (NY/2013), dated 29 November 2013, the Tribunal set this case for a hearing on the merits on 29–31 January 2014. The parties were directed, in the event they decide to resolve these cases informally, to advise the Tribunal accordingly in good time prior to the scheduled hearing on the merits in order to avoid unnecessary expenditure of the Tribunal’s resources. Further, the Tribunal ordered that should any of the applicants decide not to proceed further with the application, they shall promptly file a notice withdrawing the matter fully, finally and entirely, including on the merits.

Notice of withdrawal in the present case

16. On 10 December 2013, Mr. Mabande filed a notice of withdrawal of his application, stating: “The Applicant has decided not to proceed further with his application. He hereby files his notice withdrawing the matter fully, finally and entirely, including on the merits”.

Consideration

17. The desirability of finality of disputes within the workplace cannot be gainsaid (see *Hashimi* Order No. 93 (NY/2011) and *Goodwin* UNDT/2011/104). Equally, the desirability of finality of disputes in proceedings requires that a party should be able to raise a valid defence of *res judicata* which provides that a matter between the same

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which means that the applicant does not have the right to

20. In the instant case, the Applicant has confirmed that he is withdrawing the matter *in toto*, that is, fully, finally, and entirely, including on the merits. Therefore, dismissal of his case with a view to finality of proceedings is the most appropriate course of action.

Order

21. The Applicant has withdrawn this case in finality, including on the merits, with the intention of resolving all aspects of the dispute between the parties. There no longer being any determination to make, this application is dismissed in its entirety without liberty to reinstate or the right to appeal.

(Signed)

Judge Ebrahim-Carstens

Dated this 11th day of December 2013

Entered in the Register on this 11th day of December 2013

(Signed)

Hafida Lahiouel, Registrar, New York